



Report to the Legislature

Services to Persons who are Residents of Residential Habilitation Centers (RHC) who are able to be Cared for and Choose to live in Community Settings, Clients With Disabilities who are Without Residential Services and at Immediate Risk of Institutionalization, or are Children Aging Out of Other State Services, or are Community Based Waiver Clients Assessed as Having Immediate Need for Increased Services

Chapter 25, Laws of 2003, E1, Section 205(1)(c) Uncodified

November 15, 2004

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EXECUTIVE SUMMARY

Chapter 25, Laws of 2003, E1, Section 205(1)(c) requires the Department of Social and Health Services' Division of Developmental Disabilities (DDD) to report, within 45 days following each fiscal quarter, the number of persons moving into community settings through this section and the actual expenditures for all community services to support those residents. The proviso is intended to provide community residential and support services for a minimum of 43 clients including: 1) residents of Residential Habilitation Centers (RHC) who are able to be adequately cared for in community settings and who choose to live in those community settings; 2) clients without residential services who are in crisis or immediate risk of needing an institutional placement; 3) children who are aging out of other state services; and 4) current waiver clients who have been assessed as having an immediate need for residential services or increased support services.

BACKGROUND

Residents of RHCs who are able to be adequately cared for in community settings and who choose to live in those community settings: Through a process adopted by DDD to implement Olmstead during the 2001-03 biennium, each individual living in an RHC, their guardian or close relative(s) will be asked annually whether they want to move to the community. If a person wants to move, the division will facilitate the move.

Children who are aging out of other state services: Children age out of DSHS Children's Administration (CA) services between the ages of 18 and 21. Children age out of DSHS Juvenile Rehabilitation Administration (JRA) services at age 18. Funding for their services through CA and JRA is specific to child serving administrations and dependent on these federal funding sources. The funds cannot accompany the child into DDD adult services.

Children enter CA services due to abuse and/or neglect in their family home and therefore are not able to be supported by their family. A number of the youth with developmental disabilities aging out of CA have medical or behavioral issues which cannot be adequately supported in Adult Family Homes, Adult Residential Care facilities or with Medicaid Personal Care. These youth require a more intensive level of support such as the DDD Supported Living Program.

Children enter JRA services due to criminal charges. A number of the youth with developmental disabilities aging out of JRA services have community protection issues including sexual offenses or violent crimes. They require 24-hour close supervision in order to maximize community safety. Families generally are not able to provide this level of support. They cannot reside in Adult Family Homes or Adult Residential Care facilities due to the risk they would present for other residents. These youth require supports at the level of a DDD 24-hour Community Protection program.

Clients without residential services who are in crisis or immediate risk of needing an institutional placement: Providing community services options to divert the need for institutionalization for persons with developmental disabilities is a long-term state and national trend. A number of DDD clients who are eligible for, and have the right to services in an ICF/MR experience a crisis due to the loss of, or lack of needed supports that places their health and safety at risk. This may occur when they lose a caregiver such as an elderly parent or a contracted community provider is no longer able to meet their significant

support needs. These persons are at risk of institutionalization without sufficient community supports to meet their health and safety needs.

Current waiver clients who have been assessed as having an immediate need for residential services or increased support services: A review of DDD's Cap waiver was conducted by the Center for Medicare Medicaid Services (CMS) July 2001 – January 2002. The CMS report from this review states in Recommendation #4: "Remove all provisions from existing laws, regulations, policies and procedures that support or encourage denying CAP clients access to needed waiver services due to funding limitations. At the same time, laws and policies should be implemented recognizing the need to fully fund the waiver services CAP participants are assessed to need." In discussions that were held about Washington's applications for the current four new DDD Home and Community Based Waivers, federal officials in Baltimore separately asked for assurance that Washington will meet waiver participant needs. As the CMS required yearly Plans of Care are completed for waiver participants, clients are assessed as having unmet health and safety needs. It is imperative services be authorized in order to not jeopardize continued federal funding (FFP) for Washington State under the current four DDD HCBS waivers.

In this current proviso, the Legislature appropriated funds in the 2003-05 biennium to serve 14 residents of RHCs who are able to be adequately cared for in community settings and who choose to live in those community settings, and clients without residential services who are at immediate risk of institutionalization or in crisis. In addition, the legislature appropriated funds in the Supplemental 2004 budget to provide community residential and support services for a minimum of twenty-nine (29) additional individuals and included children who are aging out of other state services and current home and community-based waiver program clients who have been assessed as having an immediate need for increased services. These funds provided an average daily rate of \$300.00 per client/per day. Additional individuals can be served if the department is able to limit new client placement expenditures to 90 percent of the budgeted daily rate and provided the total projected carry-forward expenditures do not exceed the amounts estimated.

STATUS

The Division of Developmental Disabilities has placed four (4) clients during the quarter June through September 2004. The total number of people being served under the proviso currently is twenty-one (21) with an average daily rate of \$270.94 (See attached spreadsheet). Nine (9) people who moved from RHCs to the community from March 2004 and after and previously shown under Olmstead have been removed from this proviso report because the costs for their community placements are charged to funds DDD received for Fircrest downsizing.

Following is a description of the needs of two (2) persons served who meet the criteria of "children who are aging out of other state services," and two (2) persons served who meet the criteria of "clients without residential services who are in crisis or immediate risk of needing an institutional placement". In addition, a client description is included for an individual that was placed last quarter but was inadvertently left off last quarter's report. These client descriptions are provided to offer information about this particular population.

Children Who are Aging Out of Other State Services:

MM aged out of a Children's Administration residential setting at age 18. He has diagnosis including Mild Mental Retardation, Fetal Alcohol Effect, Attention Deficit Hyperactivity Disorder, Depression, Post-traumatic Stress Disorder, Psychotic Disorder, Conduct Disorder, and Sexual Abuse of a Child, both as perpetrator and victim. As a young child, both parents and a pedophile living in the home abused MM. He and his siblings were removed from the parental home 3 times, and on the fourth removal entered

foster care for three years. During this time MM and his younger sister engaged in frequent and on-going sexual activity. At age 7 he and his siblings were adopted. At age 9 he entered group/foster care and has since lived in at least 5 different settings. Professional evaluations and reports by his adopted mother state MM has: 1) admitted to sexually abusing his sister and other small children involving overt violence during perpetration; 2) no regard for victim's reactions and objections with limited remorse; 3) limited awareness of how to prevent future offenses; 4) a history of physical aggressiveness; 4) killed a number of animals; 5) sexually abused roommates in his residential placements; 6) poured gas around the house so it would burn. Evaluations state that MM poses a high danger to society and will likely continue to engage in sexual offending without close supervision. MM is now receiving Community Protection Supported Living services and is attending school.

BD aged out of a Children's Administration residential setting at age 19. He has diagnoses including Mild to Moderate Mental Retardation, Oppositional Defiant Disorder, Attention Deficit Disorder, and Fetal Alcohol Syndrome. He was removed from his family home as a child due to physical and sexual abuse and placed in foster care. (His mother was recently murdered by his father who is now in prison.) At age 17 the foster home placement was terminated due to his assaultive/aggressive behaviors and he was placed in a staffed residential home. This placement in June 2004 disrupted due to his oppositional behaviors and suicidal threats and he was admitted for in-patient psychiatric treatment. BR is now receiving Supported Living services and is attending school.

Clients Without Residential Services Who are in Crisis or Immediate Risk of Needing an Institutional Placement:

JK began receiving services through this proviso on June 21, 2004 but was inadvertently omitted from the April – June 2004 report. JK is 23 years old and was previously living with an individual provider and receiving Medicaid Personal Care. The provider terminated services for JK. At the same time DDD determined that this type of living situation was no longer safe for JK or the community. JK was exhibiting very violent tendencies leading to physical harm to his provider, in addition to property destruction. He also became angry with his grandmother and attempted to start her house on fire and became angry with his provider and started the provider's car on fire. JK began receiving Community Protection Supported Living services on 6/21/04.

SG is a 24-year old young man who has diagnosis of severe, uncontrollable seizures and mental retardation. He has serious assaultive behaviors and is resistive to assistance with personal care. SG lived in several Adult Family Homes however the placements disrupted when the AFHs' were not able to support him due to his assaultiveness towards other residents and the AFH providers. SG then returned to his father's home with his father being the sole caregiver. SG's father quickly became exhausted from providing care mainly due to SG's behaviors. SG received emergency respite at Rainier School to help maintain his residence with his father. Even with this respite SG's care was beyond the level that a single caregiver could provide and his father requested out-of-home placement. SG's mother was unable to support him because of an infant in the home and fear that SG would assault the baby. SG is now receiving Supported Living residential services and county vocational services.

DB is 18 years old and has diagnosis of Autism and severe mental retardation. Until his placement through this proviso DB lived with his parents. He requires physical assistance with all activities of daily living including support for incontinence issues. He is not able to communicate verbally. DB is physically aggressive and has assaulted his parents and school staff on a regular basis. His parents began requesting out-of-home placement in 2003 because they were no longer able to safely meet his needs at home. Respite at two different RHCs was provided for DB on 10 occasions during the past year however was not sufficient to enable his parents to continue to support him at home due to his continuing assaultive and destructive behaviors. They requested placement for their son at an RHC but agreed to a

community placement once shown these options. DB is currently receiving Supported Living services and is attending school.

**2003-2005 PROVISIO TRACKING
OLMSTEAD/DIVERSION/EXPAND COMMUNITY
5TH QUARTER TOTALS SEPTEMBER 2004**

Name	Previous Residence	Moved to	Start Date	Residential Rate	Employment day Prog Rate	Therapies	Other	Total Daily Rate	Expenditure To Date 9/31/2004	Cost FY 04	Cost FY 05	Biennial Cost
OLMSTEAD												
CP	Rainier	Region 4	10/31/2003	260.55	23.89	1.64	1.06	287.14	\$ 96,479.04	\$ 70,062.16	\$ 104,806.10	\$ 174,868.26
DB	Fircrest	Region 4	2/2/2004	255.25	23.89	2.53	1.06	282.73	\$ 68,420.66	\$ 42,409.50	\$ 103,196.45	\$ 145,605.95
BS	Rainier	Region 4	3/1/2004	272.16	23.89	3.95		300.00	\$ 64,200.00	\$ 36,600.00	\$ 109,500.00	\$ 146,100.00
subtotal								289.96	\$ 229,099.70	\$ 149,071.66	\$ 317,502.55	\$ 466,574.21
DIVERSION												
JH		Region 3	7/1/2003	239.28				239.28	\$ 109,350.96	\$ 87,337.20	\$ 87,337.20	\$ 174,674.40
CDJ		Region 3	7/1/2003	200				200.00	\$ 91,400.00	\$ 73,000.00	\$ 73,000.00	\$ 146,000.00
GC		Region 4	7/26/2003	149.01				149.01	\$ 64,521.33	\$ 50,812.41	\$ 54,388.65	\$ 105,201.06
RB		Region 3	8/1/2003	158.66				158.66	\$ 67,747.82	\$ 53,151.10	\$ 57,910.90	\$ 111,062.00
CC		Region 3	8/18/2003	242.46				242.46	\$ 99,408.60	\$ 77,102.28	\$ 88,497.90	\$ 165,600.18
MM		Region 4	8/21/2003	280				280.00	\$ 113,960.00	\$ 88,200.00	\$ 102,200.00	\$ 190,400.00
MC	Fircrest	Region 4	10/29/2003	260.28	23.89	11.84	1.06	297.07	\$ 100,409.66	\$ 73,079.22	\$ 108,430.55	\$ 181,509.77
SB		Region 5	12/3/2003	266	20	15		301.00	\$ 91,203.00	\$ 63,511.00	\$ 109,865.00	\$ 173,376.00
PM		Region 6	1/14/2004	371.44				371.44	\$ 96,945.84	\$ 62,773.36	\$ 135,575.60	\$ 198,348.96
AC		Region 4	2/7/2004	250				250.00	\$ 59,250.00	\$ 36,250.00	\$ 91,250.00	\$ 127,500.00
AG	Rainier	Region 4	2/17/2004	255.25	23.89	29.69	1.06	309.89	\$ 70,345.03	\$ 41,835.15	\$ 113,109.85	\$ 154,945.00
subtotal								254.44	\$ 964,542.24	\$ 707,051.72	\$ 1,021,565.65	\$ 1,728,617.37
EXP COMM												
CN		Region 4	4/5/2004	229.51		14.8		244.31	\$ 43,731.49	\$ 21,254.97	\$ 89,173.15	\$ 110,428.12
JE		Region 1	6/7/2004	287.03				287.03	\$ 33,295.48	\$ 6,888.72	\$ 104,765.95	\$ 111,654.67
JK		Region 6	6/21/2004	454.02		\$ 5.00		459.02	\$ 46,820.04	\$ 4,590.20	\$ 167,542.30	\$ 172,132.50
MM		Region 1	7/6/2004	317.46				317.46	\$ 27,619.02	\$ -	\$ 115,872.90	\$ 115,872.90
BD		Region 3	8/23/2004	287.53		\$ 12.00		299.53	\$ 11,681.67	\$ -	\$ 109,328.45	\$ 109,328.45
SG		Region 4	9/13/2004	236.80	23.89			260.69	\$ 4,692.42	\$ -	\$ 95,151.85	\$ 95,151.85
DB		Region 6	9/13/2004	148.12		\$ 5.00		153.12	\$ 2,756.16	\$ -	\$ 55,888.80	\$ 55,888.80
subtotal								288.74	\$ 170,596.28	\$ 32,733.89	\$ 737,723.40	\$ 770,457.29
TOTAL								270.94	\$ 1,364,238.22	\$ 888,857.27	\$ 2,076,791.60	\$ 2,965,648.87